

United Nations Expert Mechanism on the Rights of Indigenous Peoples

Proposals to be put forward to the 57th session of the Human Rights Council

Unedited version

Proposal 1: Human Rights Council panel discussion

1. In accordance with its decision taken at its seventeenth session, the Expert Mechanism proposes that the Human Rights Council hold a panel discussion on the rights of Indigenous Peoples regarding critical energy transition minerals. A just transition to sustainable economies, societies and energy systems is urgently needed, and must be managed carefully to avoid infringing on Indigenous Peoples' human rights. It is imperative to ensure that the energy transition is just and genuinely in compliance with Indigenous Peoples' human rights and the fundamental rights articulated in the Declaration. The Expert Mechanism proposes that the panel discussion be organized for the sixtieth session of the Council, to be held in September 2025.
2. During its seventeenth session, the Expert Mechanism decided that its next annual study will be on Indigenous Peoples, data collection and disaggregation. The study will be complemented by an expert seminar, organized by the Expert Mechanism with the participation of an academic institution and OHCHR, to be held late 2024, and will be informed and enriched by inputs from rights holders and stakeholders solicited through an open call.
3. The Expert Mechanism invites the Council to take into account the recommendations put forward during the half-day panel discussion held during its fifty-fourth session, in September 2023, on the impact of development projects on the rights of Indigenous Peoples, and in particular the impact on Indigenous women.

Proposal 2: Development of national action plans, effective national and regional monitoring mechanisms and legislation for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

4. The Expert Mechanism welcomes the positive developments in a number of States that have developed or are in the process of developing national and subnational action plans, policies and legislation for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples in consultation and cooperation with Indigenous Peoples. The Expert Mechanism also welcomes the implementation of the measures set out in national action plans and legislative measures and the establishment of effective mechanisms for monitoring and adequately funding those measures. The Expert Mechanism is concerned with reports where collaborative efforts between Indigenous Peoples and States have stalled or cannot be established.
5. The Expert Mechanism calls upon the Human Rights Council to continue to encourage more States to actively take specific measures to develop national action

plans, policies and legislation for the implementation of the Declaration, in consultation and cooperation with Indigenous Peoples, including mainstreaming the Declaration in national action plans on business and human rights and other human rights national action plans.

6. The Expert Mechanism calls upon the Human Rights Council to encourage States to facilitate capacity building of Indigenous Peoples' institutions and monitoring mechanisms, to oversee the implementation of the United Declaration on the Rights of Indigenous Peoples in an ongoing manner.
7. The Expert Mechanism proposes that the Council encourage States to consult and cooperate with Indigenous Peoples and engage in fruitful and sustained dialogue with civil society, academia, United Nations bodies, all levels and departments of Government to advance the implementation of the Declaration.
8. The Expert Mechanism remains concerned with reports where collaborative efforts between Indigenous Peoples and States have stalled or cannot be established. Furthermore, the Expert Mechanism remains concerned about the urgent need for all United Nations member States to accelerate preparation of and comprehensive implementation of national action plans, policies, and legislation in consultation and cooperation with Indigenous Peoples and calls upon the Human Rights Council to continue to encourage more States to actively take specific measures to develop and finalize such initiatives.

Proposal 3: Rights of Indigenous Peoples in peace-negotiations, peace agreements and post-conflict situations.

9. Referring to the preamble of the Declaration, which emphasised the contribution of the demilitarisation of the lands and territories of Indigenous Peoples to peace, economic and social progress and development, understanding, and friendly relations among nations and peoples of the world and; recalling Article 7(2) of the Declaration, which establishes that Indigenous Peoples have the collective right to live in freedom, peace, and security as distinct entities, the role of peace agreements and other constructive arrangements becomes pivotal in resolving conflicts; the Expert Mechanism was pleased to hold a panel discussion on the rights of Indigenous Peoples in post-conflict situations and peace negotiations, agreements, and accords.
10. Indigenous Peoples have actively engaged in conflict resolution processes, including negotiations for peace agreements. Article 30 of the Declaration affirms that the militarisation shall not take place in the lands or territories of Indigenous Peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the Indigenous Peoples concerned. Further, it requires states to undertake effective consultations with the Indigenous Peoples concerned, through appropriate procedures and through their representative institutions, prior to using their lands or territories for military activities.
11. Indigenous Peoples, according to Article 40, have the right of access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with states or other parties, as well as effective remedies for all infringements of their individual and collective rights.
12. Taking into consideration that accountability, truth-finding, reparations, institutional reform, and reconciliation are seen as the five pillars of transitional justice processes to address legacies of massive and serious human rights violations and to achieve

sustainable peace, the Expert mechanism suggests that the Council urge States to fully include representatives of Indigenous Peoples in all pillars of transitional justice processes.

13. The Expert Mechanism suggests that the Council should strongly urge and encourage States to fully implement the existing peace agreements, accords, and other agreements that Indigenous Peoples and member states have signed.
14. The Expert Mechanism suggests that the Council should invite States to meaningfully engage Indigenous Peoples as partners rather than beneficiaries in peace agreements, negotiations, and any constructive arrangement processes. Together, they should define the negotiation framework and terms of the agreement, including implementation and monitoring with mutual consent and equal participation.
15. The Expert Mechanism proposes that the Council encourage United Nations bodies, agencies, and programmes to monitor conflict areas and provide capacity building trainings for Indigenous institutions and representatives on effective participation in national dialogues, transitional justice processes, peace negotiations and agreements.
16. The Expert Mechanism proposes that the Council urge States to end conflicts in, and on, Indigenous Peoples land and territories, to establish appropriate arbitration mechanisms in partnership with Indigenous Peoples, and to address claims regarding violations of agreements. The methods of conflict resolution should incorporate Indigenous approaches and Indigenous laws to dispute resolution processes. The Declaration and other international human rights law must serve as a guide for conflict resolution mechanisms.

Proposal 4: Constitutions, laws, policies, judicial decisions and other mechanisms through which States have taken measures to implement the United Nations Declaration on the Rights of Indigenous Peoples in accordance with article 38

17. The Expert Mechanism appreciates the recognition expressed by participants during its seventeenth session, as well as the large number of written submissions, for the study on constitutions, laws, legislation, policies, judicial decisions and other mechanisms through which States have taken measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, in accordance with article 38.
18. The Expert Mechanism calls on the Human Rights Council to encourage States to engage with the Advice in the study. The Expert Mechanism re-affirms the United Nations Declaration on the Rights of Indigenous Peoples has legal effect, as confirmed by the growing examples of positive jurisprudence and application by United Nations Treaty Bodies. The Declaration has contributed to the development of and reflects general principles of international law or customary international law. Noting that the Declaration is progressively interpreted in national, regional and international jurisprudence and judicial decisions on Indigenous Peoples' rights the Expert Mechanism recommends that the Council encourage States to take into account the norms of customary law when training civil servants and judges and to also appoint more Indigenous judges.
19. The Expert Mechanism calls on the Human Rights Council to encourage States to formally refer to the United Nations Declaration on the Rights of Indigenous Peoples as a universal international human rights instrument in domestic law. This provides clarity to courts that the Declaration should be used in the interpretation of domestic law.

20. The Expert Mechanism recommends that the Council request the States to apply positive practices of inclusion of Indigenous Peoples in legislation reform including mechanisms of their direct participation in legislature.

Proposal 5: Participation of Indigenous Peoples in the Human Rights Council

21. The Expert Mechanism welcomes the steps of the Human Rights Council to continue to facilitate, in consultation with Indigenous Peoples, the participation of Indigenous Peoples in the work of the Council, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, and the reinforcement of its earlier decisions in relation to this endeavor, and to further commit to reducing the barriers, such as language and visa barriers, and to promote the remote and in-person attendance of Indigenous Peoples.
22. The Expert Mechanism appreciates the Council's decision to convene two intersessional meetings of the Human Rights Council to address the themes of venues of participation, participation modalities, accreditation criteria, and an accreditation mechanism, to be concluded before February 2025. The Expert Mechanism appreciates the appointment of the State and Indigenous Co-facilitators to assist the intersessional meetings on concrete approaches to enhance the participation of Indigenous Peoples in the work of the Human Rights Council. The Expert Mechanism encourages the Council, based on the intersessional deliverables, to establish and adopt a resolution on enhancing the participation of Indigenous Peoples in the work of the Council.
23. The Expert Mechanism proposes that the Council continue to advance Indigenous Peoples' participation in the interactive dialogue with the Special Rapporteur on the rights of Indigenous Peoples, the interactive dialogue with the Expert Mechanism on the Rights of Indigenous Peoples and the half-day panel discussions of the Council.
24. The Expert Mechanism proposes that the Council invites the United Nations Voluntary Fund for Indigenous Peoples to facilitate the participation in the meetings on enhanced participation of several Indigenous Peoples' representatives from each of the seven sociocultural regions, as recommended by the Council in paragraph 14 of its resolution 51/18, ensuring balanced regional and gender representation, and to assist in the acceleration of resourcing, facilitating, ensuring, and maximizing participation of Indigenous Peoples political institutions and organizations in the forthcoming intersessional meetings.

Proposal 6: Protection of Indigenous human rights defenders and leaders

25. Considering the critical situation that Indigenous human rights defenders and leaders 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 address corporate and state violations and ensure that Indigenous human rights defenders and Indigenous leaders, without 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 and leaders, the revision of laws that restrict or criminalize their work, abstention from any act aimed at inhibiting their activities or putting at risk their integrity, and the adoption of appropriate measures to protect them from any form of

threat, intimidation, harassment or attack, including online harassment and intimidation.

26. The Expert Mechanism also proposes that the Council request Member States to take accountability for prompt and effective investigation of any violations of the rights of Indigenous Peoples, Indigenous human rights defenders and Indigenous leaders, including against Indigenous women, to ensure effective remedies and guarantee the principle of non-repetition in the violation of their rights.

Proposal 7: Reprisals against Indigenous human rights defenders, mandate holders and Indigenous leaders

27. The Expert Mechanism emphasizes and recalls that the United Nations system has committed to ensuring events in which everyone can participate in an inclusive, respectful and safe environment, without fear of intimidation, harassment or reprisal of any sort, as clearly established in the Code of Conduct to Prevent Harassment, Including Sexual Harassment, at United Nations 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 in any meeting of the Expert Mechanism and to ensure the highest ethical and professional standards. The Expert Mechanism urges the Council to strongly reaffirm that any act of intimidation or reprisal is inadmissible and that it will be dealt with promptly. The Expert Mechanism also recommends that the Council condemn acts of intimidation or reprisals against Indigenous leaders, Indigenous Peoples' human rights defenders and mandate holders for their participation in or collaboration with the UN, including transnational reprisals.
28. The Expert Mechanism calls upon the Council to reiterate the concerns and proposed actions set out in paragraphs 27 and 28 of its resolution 51/18 and paragraphs 32 and 33 of its resolution 54/12, including the concern regarding the increase in cases of reprisal against Indigenous human rights defenders. It also calls upon the Council to urge States to adopt emergency responses to ensure due protection for Indigenous leaders and their communities and to address all allegations of and condemn all reprisals against Indigenous human rights defenders, including United Nations current and former 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 that all Indigenous individuals who seek to participate in United Nations meetings are granted visas without any discrimination or delay.

Proposal 8: Increased engagement of Member States with the Expert Mechanism

29. The Expert Mechanism proposes that the Human Rights Council continue to encourage Member States to engage actively with the Expert Mechanism's activities, including by submitting contributions to its studies and reports, attending and participating in its annual sessions and providing input and oral comments on its reports and studies. The Expert Mechanism urges the Council to address and remove any financial limitations in the context of present or future liquidity crisis that impact on the full and effective exercise of the mandate of the Expert Mechanism, including on its intersessional

activities such as country engagement missions, intersessional meetings and expert seminars.

30. The Expert Mechanism proposes that the Council strongly encourage States and Indigenous Peoples to increase their engagement with it under its mandate, pursuant to Council resolution 33/25, by submitting requests for technical assistance and the facilitation of dialogue, including for the implementation of the recommendations pertaining to Indigenous Peoples arising from the universal periodic review and those made by 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 9: Rights of Indigenous Peoples in the non-self-governing territories

31. The Expert Mechanism welcomes the work of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, established in 1961 by the General Assembly, to review the list of Non-Self-Governing Territories.
32. 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 within those waiting to be inscribed on the list are fully recognized and respected, 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 10: International Decade of Indigenous Languages

33. The Expert Mechanism reiterates its proposal 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 implicated in the promotion and fulfillment of Indigenous Peoples language rights. Following some concerning examples mentioned in the Expert Mechanism study on legislation, laws and policies, special focus shall be made on the synchronization of constitutions and laws, policies and programmes with the aim to convert constitutional recognition of Indigenous Peoples' languages into practical support measures to language communities, including language planning, appropriate funding for community-led activities, documentation, revitalization, and education.
34. Given the continuing low number of action plans adopted on national and local levels, the Expert Mechanism also reiterates its recommendation to the Council to encourage States to take specific, effective, prompt and adequately financed measures to implement the Global Action Plan at the local and national levels in a culturally appropriate manner and in close consultation and cooperation with Indigenous Peoples. The Expert Mechanism encourages the Council to contribute to the evaluation and monitoring of the implementation of national action plans. To that effect, States and UNESCO should allocate funding. The Expert Mechanism proposes that UNESCO establishes an internal mechanism tailored for, composed by, and of Indigenous Peoples and organize 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 the design and subsequent implementation of strategies, initiatives, policies and legislation.

35. The Expert Mechanism proposes that the HR Council consider advancing a convention on Indigenous Peoples' languages.

Proposal 11: Indigenous Peoples' right to sustainable development

36. 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 and ensuring respect for, and the full implementation of, agreements resulting from fair and equitable negotiations. States should take all appropriate measures, including through legislation, to ensure that business enterprises operating or originating in their jurisdiction act with due diligence and comply with international human rights instruments and with the Guiding Principles on Business and Human Rights, and satisfy all reporting obligations from States.
37. Having conducted a seminar on Indigenous Peoples' rights to traditional economies, in an age of climate change, the Expert Mechanism proposes that the Council urge States to contribute to recognizing, enhancing and strengthening Indigenous Peoples' traditional economies and building the capacity of Indigenous Peoples' institutions to be directly engaged in the management and decision-making bodies involved in all dialogues regarding traditional economies and related rights. It also proposes that States contribute to recognizing, enhancing and strengthening Indigenous Peoples-led approaches to land and marine management.
38. The Expert Mechanism urges the Council to consider, the negative impact of barriers and measures that impinge on the enjoyment of Indigenous Peoples human rights including the rights to health, clean environment and international cooperation, as well as sustainable development conditions and opportunities of Indigenous Peoples. The Expert Mechanism asks the Council to work with States to eliminate, minimize or mitigate such negative impact.

Proposal 12: Indigenous Peoples' health and well-being

39. The Expert Mechanism proposes that the Human Rights Council urge States to acknowledge, recognize, and take specific actions pursuant to World Health Assembly resolution WHA76.16 of 30 May 2023 on the health of Indigenous Peoples, in particular the specific paragraphs addressing State members of the World Health Organization to develop, fund, and implement national health plans and strategies, in addition to all other paragraphs, in order to be explicitly responsive to Indigenous Peoples, who face dramatic disparities in health and well-being across many indicators.

Proposal 13: Indigenous Peoples and Local Communities

40. In alignment with the 2024 Rome Outcome Document from the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, and the Special Rapporteur on the Rights of Indigenous Peoples, the Expert Mechanism proposes that the Human Rights Council encourage States to adopt and implement distinctions-based policies that respect and enhance the status and rights of Indigenous Peoples. These policies should acknowledge Indigenous Peoples as separate from categories or terms that are different from their own denomination such as “local communities,” especially where their rights are concerned.
41. Together with the Special Rapporteur on the Rights of Indigenous Peoples and the Permanent Forum on Indigenous Issues, the Expert Mechanism has observed that in many conventions and processes, the term Indigenous Peoples has been used in conjunction with other ambiguous terms and groups such as “local communities” when in fact, the characteristics, nature, and origins of the rights of Indigenous Peoples are very different from other groups. The United Nations Declaration on the Rights of Indigenous Peoples is the clearest indication that the international community is committed to protecting the individual and collective rights of Indigenous Peoples. These rights and their participation were reinforced and reiterated during the 2014 World Conference on Indigenous Peoples.

Proposal 14: Indigenous Child Welfare

42. Reflecting on its country engagement mission to Australia in October 2023, the Expert Mechanism proposes that the Human Rights Council encourage states to recognize that the pivotal and fundamental right of self-determination should influence, direct and underscore any plan, policy or organisation particularly when considering the wellbeing of Indigenous children. Realisation of the right of self-determination is critical for Indigenous Peoples when addressing child welfare. Government departments responsible for child welfare should support and meaningfully facilitate the right of self-determination for Indigenous Peoples.

Proposal 15: Implementation of the UN Declaration on the Rights of Indigenous Peoples

43. The Expert Mechanism proposes that the Human Rights Council take note of the need for progress on the United Nations System Wide Action Plan to implement the Declaration.
44. The Expert Mechanism proposes that the Human Rights Council encourage the continued and increasing use of the Declaration as an interpretive lens in the work of United Nations Treaty Bodies and the Universal Periodic Review.

Proposal 16: Capitalisation of Indigenous Peoples

45. The Expert Mechanism on the Rights of Indigenous Peoples calls on the Human Rights Council to acknowledge, affirm and apply the resolutions of the General Assembly regarding the consistent and comprehensive capitalization of the term Indigenous Peoples in all official United Nations languages.