

**Human Rights Council – 54<sup>th</sup> Session**

**Interactive Dialogue with the Expert Mechanism on the Rights of Indigenous Peoples**

**Opening Remarks by Sheryl Lightfoot**

**Chair-Rapporteur, Expert Mechanism on the Rights of Indigenous Peoples**

**Palais des Nations, Geneva, Switzerland**

**28 September 2023**

President of the Human Rights Council,  
Excellencies,  
Indigenous leaders and representatives,

It is my pleasure to present to you the work of the Expert Mechanism on the Rights of Indigenous Peoples for which I acknowledge the contribution of my fellow experts, Antonina Gorbunova, Valmaine Toki, Margaret Lokawa, Annexa Alfred Cunningham, as well as our and reappointed member, Binota Dhamai and new member, Dalee Sambo Dorough. I once more express my gratitude to them for the trust they have placed in me by appointing me as Chair-Rapporteur of the Expert Mechanism for this year.

Pursuant to resolutions 33/13 and 33/25, the Expert Mechanism on the Rights of Indigenous Peoples is presenting to this session of the Council the work of the Expert Mechanism over the past year. As decided during our fifteenth session, the Expert Mechanism on the Rights of Indigenous Peoples has undertaken a study on the impact of militarization on the rights of Indigenous Peoples. In December of last year, the Expert Mechanism held an Expert Seminar to obtain substantive input to our study on this theme. At its sixteenth session held at Palais de Nations from 17 to 21 July this year, the Expert Mechanism adopted the study.

The Expert Mechanism sees its study on the impact of militarization on the rights of Indigenous Peoples (A/HRC/54/52) as an opportunity to identify and understand the multifaceted aspects of militarization, defined as any type of military strategy or activity that had an impact on the rights of Indigenous Peoples, as articulated in the United Nations Declaration on the rights of Indigenous Peoples. The purpose of demilitarization and the principle of restriction of military activities in Indigenous territories must be interpreted in conjunction with the first paragraph of the preamble, which referred to the purposes and principles of the Charter of the United Nations, that is the maintenance of international peace and the prevention of threats to peace.

The study analyzed militarization and its impact on the rights of Indigenous Peoples in the context of international human rights standards, focusing on several articles of the Declaration, including article 30, which prohibited military activities in the lands or territories of Indigenous Peoples. Other articles of the Declaration, which were strongly interlinked with that prohibition, were also analyzed. The study addressed the public interest component of article 30, which

provided for an exception to the general prohibition on such military activities. The study expands on the notion of “public interest”, which does not constitute by itself a determinative factor. Any stated public interest must comply with the principles of necessity and proportionality as defined within an overall framework of respect for human rights. The study also addressed prevention mechanisms and the right to effective remedies.

The study proposed recommendations and expressed concerns, including that the presence of military bases in some countries had directly affected Indigenous Peoples through movement restrictions, forced displacement and threats and harassment against Indigenous women and girls. Other recommendations and concerns were focused on the impact of militarization when used in the context of conservation projects. The study addresses the need to have consultations that is conducted in good faith in Indigenous territories, that free, prior and informed consent be sought regarding new military operations, and that the participation of Indigenous Peoples in territorial defence and sustainable environmental management be guaranteed.

The study concludes with the Expert Mechanism Advice No. 16, in which we put forward some measures that States, Indigenous Peoples and other stakeholders can take, including promoting demilitarization of the lands, territories and resources of Indigenous Peoples as a contribution to the realization of the collective right to live in freedom, peace, and security as distinct peoples as well as to economic and social progress and development, understanding and friendly relations among nations and peoples of the world.

Pursuant to Pursuant to paragraph 2 (b) of Human Rights Council resolution 33/25, the Expert Mechanism is also submitting to this session its report on efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: establishing effective monitoring mechanisms at the national and regional levels for the implementation of the Declaration, which included a discussion of good practices and lessons learned.<sup>1</sup> (A/HRC/54/63)

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<sup>1</sup> A/HRC/EMRIP/2023/3.

This report addressed efforts to implement the provisions of the United Nations Declaration on the rights of Indigenous Peoples, while seeking to provide contextualised information on existing monitoring mechanisms for its implementation, including examples of the purpose and mandate of those mechanisms and how they could contribute to achieving the ends of the Declaration. The report also analysed the existing legal framework and mechanisms, including the roles of regional bodies, Governments, domestic courts, national human rights institutions, academic institutions, civil society organization and Indigenous Peoples' organizations, in monitoring implementation.

The report concluded with recommendations for measures that States, Indigenous Peoples and other stakeholders could take to achieve the ends of the Declaration as the main legal framework for creating effective monitoring mechanisms at the national and regional levels, including by adopting laws, constitutional reforms and policies, including national action plans, administrative measures and strategies; ensuring respect for rights-based consultation, participation and cooperation; and strengthening existing mechanisms and platforms for dialogue between States and Indigenous Peoples.

Our recommendations also called upon the States to establish independent, national oversight bodies, whose membership would comprise representatives of both the State and Indigenous Peoples to monitor, evaluate and report annually on the progress of the of implementation with adherence to the principles of trust, transparency, comprehensiveness, and balance.

The Expert Mechanism has adopted its annual report for this year (A/HRC/54/64) detailing all the activities we undertook throughout the year, including several intersessional activities. In November 2022, the Chair of the Expert Mechanism participated in the expert workshop organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR), on possible ways to enhance the participation of Indigenous Peoples in the work of the Council.<sup>2</sup> In December 2022, we hosted a seminar focussed on “the impact of militarisation on the rights of Indigenous Peoples”. Additionally, in February 2023, the University of British Columbia held the seminar on “Establishing effective mechanisms at the national and regional levels for implementation of the UN Declaration on the Rights of Indigenous Peoples” in February 2023 in support to the Expert Mechanism ongoing work and report on the topic.

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<sup>2</sup> See <https://www.ohchr.org/en/events/events/2022/expert-workshop-possible-ways-enhance-participation-Indigenous-peoples-work>.

. Several members of the Expert Mechanism attended meetings of the Global Task Force for Making a Decade of Action for Indigenous Languages in September and December 2022 and in March and June 2023, which were coordinated by the United Nations Educational, Scientific and Cultural Organization (UNESCO).

During our 16<sup>th</sup> session, we had an interactive dialogue with the other UN Indigenous rights mechanisms, who provided us with updates on their work on Indigenous rights, with a specific focus on the implementation of the United Nations Declaration on the rights of Indigenous Peoples.

We held a discussion on the critical situation of many Indigenous languages worldwide, joining a series of activities in the framework of the International Decade of Indigenous Languages. The Expert mechanism also held an interactive dialogue with the Expert Mechanism on the Right to Development, which underscored the need for harmonization between the United Nations instruments in addressing Indigenous Peoples' right to development and called for continued dialogue and collaboration between the two expert mechanisms.

In addition, the Expert Mechanism held two panel discussions of the right of Indigenous Peoples to engage freely in all their traditional and economic activities, with a focus on fishing practices, and impact on the legacies of colonialism and the rights of LGBTQIA+ members of Indigenous Peoples. The first panel reaffirmed the recognition and protection of Indigenous Peoples rights in fisheries, as enshrined in the United Nations Declaration on the rights of Indigenous Peoples and the International Labour Organization Tribal Peoples Convention<sup>169</sup>. The second panel focused on the ongoing challenges faced by LGBTQIA+ members of Indigenous Peoples within their communities due to colonization and discrimination and underscored the importance of recognizing diverse gender identities within Indigenous communities as part of the right to self-determination.

The Expert Mechanism has always been a strong proponent of enhancing Indigenous Peoples' participation in the work of the Human Rights Council. It is in this context that the Expert Mechanism provided the space during our 16<sup>th</sup> session for dialogue between Indigenous Peoples, Member States, and other stakeholders by holding a discussion on enhancing the participation of Indigenous Peoples' representatives and institutions in meetings of relevant United Nations bodies on issues affecting them.

The Expert Mechanism continued with its important country engagement work. The Expert Mechanism did not undertake country engagement missions during the period reported. However, it has been engaging in dialogues with requesters and Member States in preparation for country visits to carry out in the next months, including Australia from 1-10 October this year.

The Expert Mechanism has followed up on previous engagements, with Finland, New Zealand, Brazil including on the repatriation of a spiritual object, the Maaso Kova from the National Museum of World Culture in Sweden. The final step of the repatriation of the Yaqui Peoples' sacred Maaso Kova along with cultural items were returned to the Yaqui traditional authorities in Vicam Pueblo, on 12 July 2023. The International Indian Treaty Council as the requesters, underscored the significant role played by the Expert Mechanism in facilitating this repatriation effort.

This year, the Expert Mechanism continued to coordinate its work at the expert and Secretariat level with the Special Rapporteur on the Rights of Indigenous Peoples, the Permanent Forum on Indigenous Issues and the UN Voluntary Fund for Indigenous Peoples. Several formal and informal virtual meetings took place, including at the UN Permanent Forum on Indigenous Issues in April 2023.

As to future work, we have decided that our next annual Study will focus on analyzing laws, legislation, policies, constitutions, judicial decisions, and other outcomes concerning how States have taken measures to achieve the ends of the UN Declaration on the rights of Indigenous Peoples consistent with Article 38, as authorized under Council resolution 33/25. To that end, the Expert Mechanism will make a new call for contributions in the Fall and will hold an expert meeting in November 2023 to inform the study.

I would like to thank the UN Human Rights Council for its efforts in advancing the rights of Indigenous Peoples. In particular, the delegations of Guatemala and Mexico, have demonstrated excellent cooperation and inclusiveness in pursuing the resolutions on Indigenous Peoples. I would also like to thank all those States, Indigenous Peoples' organizations, NGOs, national human rights institutions, and academic institutions that contributed to our work and who attended our 16<sup>a</sup> session in impressive numbers. Our common goal is the full realization of the Declaration and all relevant human rights instruments that point to the enjoyment for

Indigenous Peoples of their collective and individual human rights, and we are all here to advance on that, finally together, through constructive dialogue and exchange.

Thank you.